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### **EXAMINER'S AMENDMENT**

Applicant's amendment and response received on 2/10/09 has been entered. Claims 1-4, 6-10, 25-27, 45-59, 63, 76, 81-96 and 101-102 have been canceled. Claims 5, 11-24, 28-44, 60-62, 64-75, 77-80, 97-100, and 103-108 are currently pending in the instant application.

In the previous office action, claims 5, 11-15, 20-22, 24, 32-44, 60-62, 64-75, 97-100, and 103-108 were indicated to be allowable following the second decision on appeal under 35 USC 134 from the Board of Patent Appeals and Interferences mailed to applicants on 4/17/08. Prosecution was closed in regards to these claims.

In view of the allowance of claims 13 and 60, the previous office action indicated that previously withdrawn claims 16-19, 23, 28-31, and 76-84 had been rejoined and limited prosecution resumed to determine the patentability of these rejoined claims.

The rejections of claims 16-19, 23, 28-31, and 76-84 under 35 U.S.C. 112, second paragraph, for indefiniteness set forth in the previous office action are withdrawn in view of the cancellation of claims 76, and 81-84, applicant's amendments to claims 16-18, 23, 28-29, 31, and 77-80, and the examiner's amendments to claims 19 and 30 below.

Claims 5, 11-24, 28-44, 60-62, 64-75, 77-80, 97-100, and 103-108 are now considered allowable over the prior art of record following entry of this examiner's amendment.

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An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Monica De La Paz on 4/30/09.

The application has been amended as follows:

1. In claim 19, lines 1-2, the phrase "recombinant adenovirus" has been replaced by -- adenovirus vector -- .

2. In claim 30, line 1, the word "recombinant" has been deleted.

Any inquiry concerning this communication from the examiner should be directed to Anne Marie S. Wehbé, Ph.D., whose telephone number is (571) 272-0737. If the examiner is not available, the examiner's supervisor, Joseph Woitach, can be reached at (571) 272-0739. For all official communications, the new technology center fax number is (571) 273-8300. Please note that all official communications and responses sent by fax must be directed to the technology center fax number. For informal, non-official communications only, the examiner's direct fax number is (571) 273-0737. For any inquiry of a general nature, please call (571) 272-0547.

The applicant can also consult the USPTO's Patent Application Information Retrieval system (PAIR) on the internet for patent application status and history information, and for

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electronic images of applications. For questions or problems related to PAIR, please call the USPTO Patent Electronic Business Center (Patent EBC) toll free at 1-866-217-9197.

Representatives are available daily from 6am to midnight (EST). When calling please have your application serial number or patent number available. For all other customer support, please call the USPTO call center (UCC) at 1-800-786-9199.

Dr. A.M.S. Wehbé

*/Anne Marie S. Wehbé/*

Primary Examiner, A.U. 1633